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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,792	04/14/2004	Ville Ruutu	59643.00430	4681
32294 7590 02/10/2009 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT DRIVE 14TH FLOOR VIENNA, VA 22182-6212				
EXAMINER				
STEPHEN, EMEM O				
ART UNIT		PAPER NUMBER		
2617				
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02/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,792

**Applicant(s)**

RUUTU ET AL.

**Examiner**

EMEM STEPHEN

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/24/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-21 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3-21 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/24/2008 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 21 rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,968,195 B2 to Nowak.

Regarding claim 21 Nowak discloses a computer program (see fig. 8) comprising program code configured to perform a method when the program is run on a computer, the method comprising: receiving quality information of location measurements provided by a plurality of measurement devices (col. 4 lines 22-37, and col. 15 line 44-col. 16 line 59); obtaining selection information for selection of at least one of said plurality of measurement devices to use for future location determinations based upon the quality information (see figures 4-7, col. 3 lines 39-53, col. 4 lines 22-61, col. 5 lines 2-11, and col. 11 line 45-col. 14 line 62, col. 16 lines 10-19, and col. 16 lines 63-67). Nowak further disclose self-learning based upon the quality information associated with the quality of results of past measurements (col. 9 lines 11-20, col. 16 lines 47-59).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
8. Claims 1, 3-20, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,282,427 B1 to Larsson et al. (Larsson) in view of Nowak.

Regarding claims 1, 7, 12, 16, 20, and 25-28, Larsson discloses a method, an apparatus, and a system (see figs. 6-7, col. 1 lines 6-18, and col. 3 lines 20-26) comprising: receiving quality information associated with location determination by at least two measurement devices (col. 1 lines 6-18, col. 3 line 35-col. 4 line 10, and col. 8 lines 32-64); storing said quality information and identity information associated with the at least two measurement devices (col. 4 lines 16-19); and providing selection information for selection of measurement devices for future location determinations, based upon the stored quality and identity information (col. 2 lines 15-29, col. 4 lines 19-42, and col. 5 lines 5-65 inherently, selection of measurement device is for future location determination).

However, Larsson fails to specifically disclose past measurements, and wherein the providing selection information comprises self-learning based upon historical quality information associate with the measurement devices.

Nowak discloses past measurements, and wherein the providing selection information comprises self-learning based upon historical quality information associate with the measurement devices (col. 5 lines 57-67, col. 9 lines 11-20, col. 13 line 63-col. 14 line 5, col. 15 lines 45-58, and col. 16 lines 47-59), historically provided measurement information that satisfies a predefined criteria (col. 10 lines 32-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Larsson, and have past measurements, and wherein the providing selection information comprises self-learning based upon historical quality information associate with the measurement devices as disclosed by Nowak for the purpose of selecting best measurement device for improving computation accuracy of user equipment location.

Regarding claim 6, Larsson discloses a method and system comprising: obtaining selection information for selection of at least one measurement device, when a location process is triggered (see figure 6, and col. 1 lines 6-18), the selection information including information of measurement devices that satisfies a predefined criteria (col. 3 line 35-col. 4 line 20); selecting at least one measurement device (col. 4 lines 21-33); and locating user equipment based on measurement information from the selected at least one measurement device (col. 4 lines 31-33).

However, Larsson fails to specify the selection information including information of measurement devices that have historically provided measurement information.

Nowak discloses selection information including information of measurement devices that have historically provided measurement information (col. 5 lines 57-67, col. 9 lines 11-20, col. 13 line 63-col. 14 line 5, col. 15 lines 45-58, and col. 16 lines 47-59), historically provided measurement information that satisfies a predefined criteria (col. 10 lines 32-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Larsson, and have past measurements, and wherein the providing selection information comprises self-learning based upon historical quality information associate with the measurement devices as disclosed by Nowak for the purpose of selecting best measurement device for improving computation accuracy of user equipment location.

Regarding claim 3, the combination of Larsson and Nowak discloses the method of claim 1, wherein the step of providing selection information comprises ranking possible measurement devices based upon historical quality information associated with measurement devices (Larsson col. 4 lines 19-33, and col. 4 lines 55-58).

Regarding claim 4, the combination of Larsson and Nowak discloses the method of claim 3, comprising the further step of selecting proper measurement devices based on the ranking (Larsson col. 4 lines 19-33, and col. 4 lines 55-58).

Regarding claim 5, the combination of Larsson and Nowak discloses the method of claim 1, comprising storing information identifying at least one cell of a mobile system (Larsson col. 4 lines 16-19).

Regarding claims 8-11, and 15, the combination of Larsson and Nowak discloses wherein the self-learning comprises maintaining a self-learning table wherein look-up parameters are matched with information regarding success of measurements by measurement devices obtained after a location attempt (Nowak, see figs. 4-7).

Regarding claim 13, the combination of Larsson and Nowak discloses the system of claim 12, wherein the quality controller, the storage and the selection controller are provided in a location service element of a mobile system (Larsson, see figure 7).

Regarding claim 14, the combination of Larsson and Nowak discloses the system of claim 12, comprising a location service element configured to select at least one measurement device based upon selection information, the selection information including information of measurement devices that have historically provided measurement information that satisfies a predefined criteria, and to locate a user equipment based on measurement information from selected at least one measurement device (Larsson col. 3 lines 35-col. 4 lines 42).



Regarding claim 17, the combination of Larsson and Nowak discloses the apparatus of claim 16, wherein the processor is configured to provide deciding means for deciding which location measurement units can be used to locate a particular mobile user equipment (Larsson, see figure 7, and col. 4 lines 43-58, i.e. distance determiner).

Regarding claim 18, the combination of Larsson and Nowak discloses the apparatus of claim 16, comprising a serving mobile location center (Larsson, i.e. mobile location center, base station controller, col. 3 lines 1-13).

Regarding claim 19, the combination of Larsson and Nowak discloses the apparatus of claim 16, comprising a separate network element connected to a serving mobile location center (Larsson, see figure 1, i.e. external application).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMEM STEPHEN whose telephone number is 571 272 8129. The examiner can normally be reached on 8-5 Mon-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571 272 7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ES  
02/06/2009

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